



# House of Representatives

General Assembly

**File No. 732**

January Session, 2015

Substitute House Bill No. 7004

*House of Representatives, April 23, 2015*

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

**AN ACT CONCERNING IMPLEMENTATION OF THE  
RECOMMENDATIONS OF THE TASK FORCE TO STUDY SERVICE OF  
RESTRAINING ORDERS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 6-32 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) Each state marshal shall receive each process directed to such  
4 marshal when tendered, execute it promptly and make true return  
5 thereof; and shall, without any fee, give receipts when demanded for  
6 all civil process delivered to such marshal to be served, specifying the  
7 names of the parties, the date of the writ, the time of delivery and the  
8 sum or thing in demand. If any state marshal does not duly and  
9 promptly execute and return any such process or makes a false or  
10 illegal return thereof, such marshal shall be liable to pay double the  
11 amount of all damages to the party aggrieved.

12 (b) Each state marshal shall have access to, and use of, the

13 automated registry of protective orders maintained by the Judicial  
14 Department pursuant to section 51-5c, as amended by this act.

15 [(b)] (c) A civil protective order constitutes civil process for  
16 purposes of the powers and duties of a state marshal. The cost of  
17 serving a civil protective order shall be paid by the Judicial Branch in  
18 the same manner as the cost of serving a restraining order issued  
19 pursuant to section 46b-15, as amended by this act, and fees and  
20 expenses associated with the serving of a civil protective order shall be  
21 calculated in accordance with subsection (a) of section 52-261, as  
22 amended by this act.

23 Sec. 2. Subsection (j) of section 6-38b of the general statutes is  
24 repealed and the following is substituted in lieu thereof (*Effective*  
25 *October 1, 2015*):

26 (j) The commission may adopt such rules as it deems necessary for  
27 conduct of its internal affairs. [and] The commission shall adopt  
28 regulations in accordance with the provisions of chapter 54 for: [the]  
29 (1) The application and investigation requirements for filling vacancies  
30 in the position of state marshal; (2) the provision of consistent and  
31 reliable access to a state marshal for persons applying for a restraining  
32 order under section 46b-15, as amended by this act; (3) the provision of  
33 services to persons with limited English proficiency; and (4) service of  
34 process that is a photographic copy, micrographic copy or other  
35 electronic image of an original document that clearly and accurately  
36 copies such original document.

37 Sec. 3. Subsection (g) of section 46b-15 of the general statutes is  
38 repealed and the following is substituted in lieu thereof (*Effective*  
39 *October 1, 2015*):

40 (g) The applicant shall cause notice of the hearing pursuant to  
41 subsection (b) of this section and a copy of the application [and the  
42 applicant's affidavit] and of any ex parte order issued pursuant to  
43 subsection (b) of this section to be served on the respondent not less  
44 than five days before the hearing, except that, when a court has issued

45 an ex parte order, notice of such hearing and ex parte order may be  
46 verbally provided to the respondent by a police officer, as defined in  
47 section 54-1t, in lieu of service by a proper officer, if such verbal notice  
48 is provided to the respondent not less than five days before the  
49 hearing. The cost of such service shall be paid for by the Judicial  
50 Branch. Upon the granting of an ex parte order, the clerk of the court  
51 shall provide two copies of the order to the applicant. Upon the  
52 granting of an order after notice and hearing, the clerk of the court  
53 shall provide two copies of the order to the applicant and a copy to the  
54 respondent. Every order of the court made in accordance with this  
55 section after notice and hearing shall be accompanied by a notification  
56 that is consistent with the full faith and credit provisions set forth in 18  
57 USC 2265(a), as amended from time to time. Immediately after making  
58 service on the respondent or, if applicable, verbally notifying the  
59 respondent of an ex parte order, the proper officer or police officer, as  
60 defined in section 54-1t, shall send or cause to be sent, by facsimile or  
61 other means, a copy of the application, or the information contained in  
62 such application, stating the date and time the respondent was served,  
63 to the law enforcement agency or agencies for the town in which the  
64 applicant resides, the town in which the applicant is employed and the  
65 town in which the respondent resides. The clerk of the court shall  
66 send, by facsimile or other means, a copy of any ex parte order and of  
67 any order after notice and hearing, or the information contained in any  
68 such order, to the law enforcement agency or agencies for the town in  
69 which the applicant resides, the town in which the applicant is  
70 employed and the town in which the respondent resides, within forty-  
71 eight hours of the issuance of such order. If the victim is enrolled in a  
72 public or private elementary or secondary school, including a technical  
73 high school, or an institution of higher education, as defined in section  
74 10a-55, the clerk of the court shall, upon the request of the victim, send,  
75 by facsimile or other means, a copy of such ex parte order or of any  
76 order after notice and hearing, or the information contained in any  
77 such order, to such school or institution of higher education, the  
78 president of any institution of higher education at which the victim is  
79 enrolled and the special police force established pursuant to section

80 10a-156b, if any, at the institution of higher education at which the  
81 victim is enrolled.

82 Sec. 4. Subsection (b) of section 51-5c of the general statutes is  
83 repealed and the following is substituted in lieu thereof (*Effective*  
84 *October 1, 2015*):

85 (b) (1) The following information contained in the registry of  
86 protective orders shall not be subject to disclosure and may be  
87 accessed only in accordance with this section, unless otherwise  
88 ordered by the court: (A) Any information that would identify a  
89 person protected by an order contained in the registry; (B) any  
90 information that is confidential pursuant to state or federal law,  
91 including, but not limited to, any information that is confidential  
92 pursuant to a court order; and (C) any information entered in the  
93 registry pursuant to an ex parte order prior to a hearing by a court  
94 having jurisdiction over the parties and the subject matter.

95 (2) Any judge of the Superior Court or any employee of the Judicial  
96 Department who is authorized by policies and procedures adopted by  
97 the Chief Court Administrator pursuant to subsection (a) of this  
98 section shall have access to such information. The Chief Court  
99 Administrator may grant access to such information to state marshals  
100 and personnel of the Department of Emergency Services and Public  
101 Protection, the Department of Correction, the Board of Pardons and  
102 Paroles, the Psychiatric Security Review Board, the Division of  
103 Criminal Justice, any municipal or tribal police department within this  
104 state or any other agency, organization or person determined by the  
105 Chief Court Administrator, pursuant to policies and procedures  
106 adopted by the Chief Court Administrator, to have a legitimate interest  
107 in the information contained in the registry. Any person who obtains  
108 such information pursuant to this subdivision may use and disclose  
109 the information only in the performance of such person's duties.

110 (3) Except as provided in subsection (c) of this section, the  
111 information contained in the registry shall be provided to and may be  
112 accessed through the Connecticut on-line law enforcement

113 communications teleprocessing system maintained by the Department  
114 of Emergency Services and Public Protection. Nothing in this section  
115 shall be construed to permit public access to the Connecticut on-line  
116 law enforcement communications teleprocessing system.

117 Sec. 5. Section 52-261 of the general statutes is repealed and the  
118 following is substituted in lieu thereof (*Effective October 1, 2015*):

119 (a) Except as provided in [subsection (b)] subsections (b) and (c) of  
120 this section and section 52-261a, each officer or person who serves  
121 process, summons or attachments on behalf of: (1) An official of the  
122 state or any of its agencies, boards or commissions, or any municipal  
123 official acting in his or her official capacity, shall receive a fee of not  
124 more than thirty dollars for each process served and an additional fee  
125 of thirty dollars for the second and each subsequent service of such  
126 process, except that such officer or person shall receive an additional  
127 fee of ten dollars for each subsequent service of such process at the  
128 same address or for notification of the office of the Attorney General in  
129 dissolution and postjudgment proceedings if a party or child is  
130 receiving public assistance; and (2) any person, except a person  
131 described in subdivision (1) of this subsection, shall receive a fee of not  
132 more than forty dollars for each process served and an additional fee  
133 of forty dollars for the second and each subsequent service of such  
134 process, except that such officer or person shall receive an additional  
135 fee of twenty dollars for each subsequent service of such process at the  
136 same address or for notification of the office of the Attorney General in  
137 dissolution and postjudgment proceedings if a party or child is  
138 receiving public assistance. Each such officer or person shall also  
139 receive the fee set by the Department of Administrative Services for  
140 state employees for each mile of travel, to be computed from the place  
141 where such officer or person received the process to the place of  
142 service, and thence in the case of civil process to the place of return. If  
143 more than one process is served on one person at one time by any such  
144 officer or person, the total cost of travel for the service shall be the  
145 same as for the service of one process only. Each officer or person who  
146 serves process shall also receive the moneys actually paid for town

147 clerk's fees on the service of process. Any officer or person required to  
148 summon jurors by personal service of a warrant to attend court shall  
149 receive for the first ten miles of travel while so engaged, such mileage  
150 to be computed from the place where such officer or person receives  
151 the process to the place of service, twenty-five cents for each mile, and  
152 for each additional mile, ten cents. For summoning any juror to attend  
153 court otherwise than by personal service of the warrant, such officer or  
154 person shall receive only the sum of fifty cents and actual  
155 disbursements necessarily expended by such officer or person in  
156 making service thereof as directed. Notwithstanding the provisions of  
157 this section, for summoning grand jurors, such officer or person shall  
158 receive only such officer's or person's actual expenses and such  
159 reasonable sum for services as are taxed by the court. The following  
160 fees shall be allowed and paid: (A) For taking bail or bail bond, one  
161 dollar; (B) for copies of writs and complaints, exclusive of  
162 endorsements, one dollar per page, not to exceed a total amount of  
163 nine hundred dollars in any particular matter; (C) for endorsements,  
164 forty cents per page or fraction thereof; (D) for service of a warrant for  
165 the seizure of intoxicating liquors, or for posting and leaving notices  
166 after the seizure, or for the destruction or delivery of any such liquors  
167 under order of court, twenty dollars; (E) for the removal and custody  
168 of such liquors so seized, reasonable expenses, and twenty dollars; (F)  
169 for the levy of an execution, when the money is actually collected and  
170 paid over, or the debt or a portion of the debt is secured by the officer,  
171 fifteen per cent on the amount of the execution, provided the  
172 minimum fee for such execution shall be thirty dollars; (G) on the levy  
173 of an execution on real property and on application for sale of personal  
174 property attached, to each appraiser, for each half day of actual  
175 service, reasonable and customary expenses; (H) for causing an  
176 execution levied on real property to be recorded, fees for travel, twenty  
177 dollars and costs; (I) for services on an application for the sale of  
178 personal property attached, or in selling mortgaged property  
179 foreclosed under a decree of court, the same fees as for similar services  
180 on executions; (J) for committing any person to a community  
181 correctional center, in civil actions, twenty-one cents a mile for travel,

182 from the place of the court to the community correctional center, in  
183 lieu of all other expenses; and (K) for summoning and attending a jury  
184 for reassessing damages or benefits on a highway, three dollars a day.  
185 The court shall tax as costs a reasonable amount for the care of  
186 property held by any officer under attachment or execution. The  
187 officer serving any attachment or execution may claim compensation  
188 for time and expenses of any person, in keeping, securing or removing  
189 property taken thereon, provided such officer shall make out a bill.  
190 The bill shall specify the labor done, and by whom, the time spent, the  
191 travel, the money paid, if any, and to whom and for what. The  
192 compensation for the services shall be reasonable and customary and  
193 the amount of expenses and shall be taxed by the court with the costs.

194 (b) Each officer or person shall receive the following fees: (1) For  
195 service of an execution on a summary process judgment, not more  
196 than fifty dollars; and (2) for removal under section 47a-42 of a  
197 defendant or other occupant bound by a summary process judgment,  
198 and the possessions and personal effects of such defendant or other  
199 occupant, not more than one hundred dollars per hour.

200 (c) The cost of service or attempted service of a restraining order,  
201 issued pursuant to section 46b-15, as amended by this act, and fees and  
202 expenses associated with the service or attempted service of such  
203 restraining order shall be computed in accordance with subsection (a)  
204 of this section, except that mileage for in hand service of such  
205 restraining order may be for up to three round trips, computed in  
206 accordance with subsection (a) of this section, as may reasonably be  
207 necessary to effectuate such service on the respondent, with any  
208 additional fees authorized only by a court order for good cause shown.

209 Sec. 6. (NEW) (*Effective October 1, 2015*) In each Superior Court  
210 where a restraining order issued under section 46b-15 of the general  
211 statutes, as amended by this act, may be made returnable, the Chief  
212 Court Administrator shall ensure that there is sufficient office space  
213 within such court so as to permit a meeting between a state marshal  
214 and a person seeking service of the notice of hearing and any order

215 issued under section 46b-15 of the general statutes, as amended by this  
216 act.

217 Sec. 7. (NEW) (*Effective October 1, 2015*) (a) The Chief Court  
218 Administrator shall revise and simplify the process for filing an  
219 application for relief from abuse under section 46b-15 of the general  
220 statutes, as amended by this act. The Chief Court Administrator shall  
221 ensure that any person seeking to file an application for relief from  
222 abuse is provided with a one-page, plain language explanation on how  
223 to apply for relief from abuse under section 46b-15 of the general  
224 statutes, as amended by this act.

225 (b) The Chief Court Administrator shall annually collect data on the  
226 (1) number of restraining or protective orders issued under section  
227 46b-15, as amended by this act, 46b-16a or 46b-38c of the general  
228 statutes; (2) the method of service of such orders in cases in which a  
229 respondent is successfully served with the order; and (3) the number of  
230 such orders issued that are subsequently vacated because the  
231 respondent could not be served with the order.

232 Sec. 8. (*Effective from passage*) The State Marshal Commission shall  
233 study the Judicial Branch's "marshal of the day" practice, which is used  
234 for the collection, dissemination and service of restraining and  
235 protective orders. Such study shall include, but not be limited to, an  
236 examination of the wait times for applicants as a result of such practice  
237 and whether such practice promotes efficient and timely service of  
238 restraining and protective orders. On or before February 1, 2016, the  
239 State Marshal Commission shall report, in accordance with the  
240 provisions of section 11-4a of the general statutes, on the results of  
241 such study to the joint standing committee of the General Assembly  
242 having cognizance of matters relating to the judiciary.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	6-32
Sec. 2	<i>October 1, 2015</i>	6-38b(j)



Sec. 3	<i>October 1, 2015</i>	46b-15(g)
Sec. 4	<i>October 1, 2015</i>	51-5c(b)
Sec. 5	<i>October 1, 2015</i>	52-261
Sec. 6	<i>October 1, 2015</i>	New section
Sec. 7	<i>October 1, 2015</i>	New section
Sec. 8	<i>from passage</i>	New section

***Statement of Legislative Commissioners:***

In Section 5(c), references to "calculated" were changed to "computed in accordance with subsection (a) of this section" for internal consistency and clarity; and in Section 6, "meeting between a person seeking service of the notice of hearing and any order issued under section 46b-15 of the general statutes, as amended by this act, and a state marshal" was changed to "meeting between a state marshal and a person seeking service of the notice of hearing and any order issued under section 46b-15 of the general statutes, as amended by this act" for clarity.

**JUD**      *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

## **OFA Fiscal Note**

### **State Impact:**

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Judicial Dept.	GF - Cost	See Below	See Below
Admin. Serv., Dept.	GF - Cost	Up to 500,000	None

Note: GF=General Fund

### **Municipal Impact:** None

### **Explanation**

The bill makes several changes to laws that relate to the service of civil restraining orders that result in a cost to the state.

Sections 1 and 4 require the chief court administrator to give state marshals access to the automated registry of protective orders maintained by the Judicial Department and result in a cost of approximately \$200,000 for Judicial to provide laptops with access to the Judicial Department computer network to all marshals (approximately 200 in the state).

Section 2 of the bill requires the State Marshall Commission (SMC) to adopt regulations for (1) the provision of consistent and reliable access to a state marshal for persons applying for a restraining order under section 46b-15; (2) the provision of services to persons with limited English proficiency; and (3) service of process that is a photographic copy, micrographic copy or other electronic image of an original document that clearly and accurately copies such original document.

Currently, SMC staff consists of two full-time employees. SMC staff does not have the expertise required to develop such regulations. It is

estimated the Department of Administrative Services (DAS) would have to retain consultants, at a cost of up to \$275,000 to research and draft such regulations.

Section 5 increases the mileage expenses a state marshal may recover by allowing the marshal to charge mileage expenses for up to three round trips to serve process and results in a cost to the Judicial Department. Currently, a marshal may recover mileage expenses for one round trip. It is anticipated that each additional attempt of service costs approximately \$13 per round trip. In FY 14 there were approximately 8,800 applications for restraining orders. If each application of a restraining order required more than one attempt of service, this bill would result in a cost of \$114,400.

Section 6 requires the chief court administrator to ensure that there is enough office space for a meeting between a state marshal and a restraining order applicant. The bill does not define office space. Currently, state marshals meet with applicants in the Court Service Centers, found in most courthouses. To the extent that this area of the courthouse is sufficient to meet this provision of the bill, this section does not result in a fiscal impact.

Section 8 of the bill requires SMC to study the Judicial Branch's "marshal of the day" practice. It also requires the study to include an examination of the wait times for applicants and whether such practice promotes efficient and timely service of restraining and protective orders. SMC has neither the resources nor the expertise to conduct such a study. It is anticipated DAS would need to contract out with a firm that would be able to deploy field staff to all courthouses in the state to collect data on when orders are issued, served and why they are not served. It is estimated such data collection and analysis would cost DAS up to \$225,000.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sHB 7004****AN ACT CONCERNING IMPLEMENTATION OF THE RECOMMENDATIONS OF THE TASK FORCE TO STUDY SERVICE OF RESTRAINING ORDERS.****SUMMARY:**

This bill makes several changes to laws that relate to the service of civil restraining orders (see BACKGROUND). It:

1. eliminates the need for a respondent (accused) to be served with a copy of an applicant's affidavit stating the conditions from which he or she is seeking relief;
2. allows verbal service of process when a court grants an ex parte order (i.e., without a hearing), but limits such service to that by a police officer as the authorized agent;
3. increases the mileage expenses a state marshal may recover by allowing him or her to charge mileage expenses for up to three round trips as may be reasonably necessary to serve process;
4. authorizes the chief court administrator to give state marshals access to and use of confidential information in the Judicial Branch's automated registry of protective orders (i.e., the state's integrated database and notification system for protective orders);
5. requires the chief court administrator to (a) ensure that there is enough office space in the court for state marshal and applicant meetings and (b) revise and simplify the process for filing a restraining order application; and
6. expands the state marshal commission's regulatory authority

and requires the commission to study the Judicial Branch's "marshal of the day" practice (which requires the commission to assign a state marshal to each Judicial District for every court day who is responsible for service of process of restraining orders).

EFFECTIVE DATE: October 1, 2015, except the section on the state marshal commission's study is effective upon passage.

## **SERVICE OF PROCESS OF CIVIL RESTRAINING ORDERS**

### **§ 3 – Service of Process**

The bill makes three changes to the service of process of civil restraining orders.

First, it eliminates the need for a restraining order respondent to be served a copy of the applicant's affidavit stating why he or she is applying for a restraining order. Under current law, the applicant must cause a hearing notice, copy of the application, his or her affidavit, and any ex parte order to be served to the respondent. By law, process must be served on the respondent within five days of the hearing date.

Secondly, the bill allows verbal service of process when a court grants an ex parte order, but limits the agent authorized to do so to state police officers or sworn members of a municipal police department (this excludes other proper officers such as state marshals). Presumably, police officers may conduct verbal service in-person or telephonically. (The bill does not specify.) Under current law, when a court grants an ex parte order, process must be served in-person by a proper officer, such as a police officer, state marshal, or constable.

Thirdly, as is required for authorized agents who conduct in-person service, police officers who provide respondents with verbal service of process must immediately notify (by fax or other means) the law enforcement agencies for the town in which the applicant and the respondent lives and the town where the applicant works, of the date and time that service was made.

**§ 5 – Mileage Expense for In-Hand Service of a Restraining Order**

By law, mileage expense for in-hand service is computed from the place where the marshal receives the process to the place of service and to the court where the service is to be returned. The bill increases the mileage expenses a state marshal may recover by allowing a state marshal to charge mileage for up to three round trips as may be reasonably necessary to serve process on the respondent, with any additional fees authorized by a court order for good cause shown. By law, the state marshal mileage fee is the same as that set by the Department of Administrative Services for state employees.

**§§ 1 & 4 – Protective Order Registry Access**

The bill authorizes the chief court administrator to give state marshals access to and use of confidential information in the Judicial Branch's automated registry of protective orders (see BACKGROUND). By law, access to the registry is limited to Superior Court judges, authorized Judicial Branch employees, and those granted access by the chief court administrator.

**§§ 6 & 7 – Judicial Branch's Court Space and Application Process**

The bill requires the chief court administrator to ensure that there is enough office space for a meeting between a state marshal and a restraining order applicant in each Superior Court to which the service of a restraining order may be returned.

The bill also requires the chief court administrator to revise and simplify the process for filing a restraining order application. She must ensure that anyone seeking to apply for relief from abuse is given a one-page, plain language explanation on how to apply. She must also collect data annually on the:

1. number of restraining or protective orders issued,
2. method used when service of process is successfully made, and
3. number of orders issued but vacated because the respondent could not be served.

**§§ 2 & 8 – State Marshal Commission Regulations and Study**

Under current law, the state marshal commission may adopt (1) rules as it deems necessary to conduct its internal affairs and (2) regulations regarding the application and investigation requirements for filling vacant state marshal positions.

The bill further authorizes the commission to adopt regulations that provide for:

1. consistent and reliable access to a state marshal for a person applying for a restraining order,
2. services to people with limited English proficiency, and
3. service of process using a clear and accurate copy of the original document.

It also requires the commission to study the Judicial Branch's "marshal of the day" practice, used for the collection, dissemination, and service of restraining and protective orders. The study must at least examine (1) whether the practice promotes efficient and timely service of restraining and protective orders and (2) the applicants' wait times. By February 1, 2016, the commission must report on the study's results to the Judiciary Committee.

**BACKGROUND*****Civil Restraining Orders***

By law, any family or household member who is subject to continuous threat of present physical pain or physical injury, stalking, or a pattern of threatening by another family or household member, may apply to the Superior Court for a restraining order (CGS § 46b-15(a)). The court must hold a hearing within 14 days of receipt of the application and may issue any order it deems appropriate to protect the applicant and any dependent children or other people as it sees fit (CGS § 46b-15(b)). The respondent (accused) must be served notice of the hearing at least five days before the hearing (CGS § 46b-15(g)). If an applicant alleges an immediate and present physical danger, the court

may issue a restraining order upon receipt of the application without a hearing (ex parte) (CGS § 46b-15(b)).

### **Protective Order Registry**

The Protective Order Registry is the state's integrated database and notification system for protective orders. Under current law, the chief court administrator may grant access to:

1. the Department of Emergency Services and Public Protection;
2. the Department of Correction;
3. the Board of Pardons and Paroles;
4. the Psychiatric Security Review Board;
5. the Division of Criminal Justice;
6. any municipal or tribal police department in the state; or
7. any other agency, organization, or person with a legitimate interest in the information, as determined by the chief court administrator.

By law, only the people granted access to the registry by the chief court administrator or by court order may access information that:

1. would identify anyone protected by an order contained in the registry,
2. is confidential under state or federal law or a court order, and
3. is entered in the registry under an ex parte order before a hearing.

Under existing law, the information contained in the registry must be provided to and may be accessed through the Connecticut on-line law enforcement communications teleprocessing system (CGS § 51-5c).

### **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea    29    Nay    15    (04/06/2015)